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| 10/824,901 | 04/14/2004 | Daniel James Winarski | TUC920040009US1 | 7571 |
| 65384 7590 05/08/2009 HAMILTON & TERRILE, LLP IBM Tucson P.O. BOX 203518 AUSTIN, TX 78720 | | | | |
| EXAMINER CHOE, YONG J | | | | |
| ART UNIT 2185 | | PAPER NUMBER | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DANIEL JAMES WINARSKI; ROBERT GEORGE EMBERTY;
CRAIG ANTHONY KLEIN; NILS HAUSTEIN

Application 10/824,901
Technology Center 2100

Mailed: May 08, 2009

Before KRISTA ZELE, *Deputy Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL

This application was electronically received by the Board of Patent Appeals and Interferences on December 17, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

APPEAL BRIEF, GROUNDS OF REJECTION

A review of the file finds that the grounds of rejection of the claims as provided in the Appeal Brief filed April 30, 2008 under the heading “Grounds of rejection to be reviewed on appeal” is unclear and/or is not consistent with the grounds of rejection of claims of record. The grounds of rejection of the claims as provided in the Appeal Brief must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Each Grounds of rejection to be reviewed on appeal must be identified.

A review of the last Office action, including any mailed Advisory Action(s) finds that claims 6-8; 29 & 30 are rejected under 37 C.F.R. § 103(a) over Basham in view of Sokolov and further in view of Gill; whereas Appellant(s) have not indicated the grounds of rejection of these claims. Correction of the Grounds of rejection to be reviewed on appeal for all claims is required.

CONCLUSION

Accordingly, it is ORDERED that the application is returned to the Examiner:

- 1) to hold the Appeal Brief filed on April 30, 2008 defective;

- 2) notify Appellant to file a paper properly addressing the
Grounds of rejection of all claims; and,
- 3) for such action as may be appropriate.

If there are any questions pertaining to this Order, please contact the
Board of Patent Appeals and Interferences at 571-272-9797.

KZ/MV/MAT

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